

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:)
CIRCUIT CITY STORES, INC., et al.,) Chapter 11
Debtors.) Case No. 08-35653-KRH
) Jointly Administered

**RESPONSE OF JAMES H. WIMMER, JR. TO
DEBTORS' FIFTY-SIXTH OMNIBUS OBJECTION TO CLAIMS**

James H. Wimmer, Jr. (“Mr. Wimmer”) hereby responds to the Debtors’ Fifty-Sixth Omnibus Objection Claims (Disallowance of Certain Alleged Administrative Expenses on Account of Employee Obligations) (the “Fifty-Sixth Omnibus Objection”) as follows:

BACKGROUND

1. On November 10, 2008 (“Petition Date”), the above-captioned debtors and debtors-in-possession (collectively, “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (“Bankruptcy Code”).
2. The Debtors continue to operate their businesses and to manage their properties as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.
3. No trustee or examiner has been requested or appointed in this case.
4. The court established January 30, 2009, as the general bar date, and June 30, 2009, as the administrative bar date.

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5. On January 27, 2009, Mr. Wimmer filed a proof of claim in the amount of \$1,749,707.14. Of that amount, Mr. Wimmer designated \$107,500.00 as an administrative expense claim pursuant to Sections 503(b)(1) and 507(a)(2) of the Bankruptcy Code. *See* POC # 9584.

6. On June 29, 2009, Mr. Wimmer filed an administrative expense claim in the amount of \$260,000. *See* POC # 13959.

7. On October 21, 2009, the Debtors filed the Fifty-Sixth Omnibus Objection Docket No. 5320). In the Fifty-Sixth Objection, the Debtors seek entry of an order reclassifying certain administrative expense priority claims as general unsecured claims and then disallowing the reclassified claims as late-filed and duplicative. *See generally* Fifty-Sixth Objection.

8. Mr. Wimmer's administrative expense claim is included among those claims the Debtors seek to reclassify and disallow pursuant to the Fifty-Sixth Objection. *See* Fifty-Sixth Objection, Ex. B & Ex. C.

9. Mr. Wimmer admits that proof of claim # 13959 is duplicative of proof of claim #9584, and therefore agrees that proof of claim #13959 should be disallowed as duplicative.

10. Mr. Wimmer objects to the Debtor's contention that the entire amount of proof of claim # 13959 should be reclassified as a general unsecured claim. However, because the amounts properly classified as an administrative expense claim were classified as such in proof of claim # 9584 and the Debtor objected to that classification in the Debtor's Fifty-Eighth Omnibus Objection to Claims, Mr. Wimmer will articulate his argument in his response to the Debtor's Fifty-Eighth Omnibus Objection.

11. However, out of an abundance of caution, Mr. Wimmer restates and realleges the arguments set forth in his Response to Debtor's Fifty-Eighth Omnibus Objection to Claims. *See*

Response of James H. Wimmer, Jr. to Debtors' Fifty-Eighth Omnibus Objection to Claims, filed November 16, 2009.

WHEREFORE, Mr. Wimmer respectfully requests that the Court enter an order granting the Fifth-Sixth Objection with respect to his proof of claim # 13959, and granting Mr. Wimmer such further and additional relief as the Court may deem just and proper.

Dated: November 16, 2009

CHRISTIAN & BARTON, LLP

/s/ Michael D. Mueller

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CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of November, 2009, I caused a copy of the foregoing to be served by electronic means on the "2002" and "Core" lists and through the ECF system.

/s/ Michael D. Mueller

Michael D. Mueller

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